

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

FILED  
SEP 07 2010  
*J. Haas*  
CLERK

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DAVID A. WAFF, individually, and  
on behalf of all those similarly situated,

\* CIV 07-4166

Plaintiff,  
vs.

\* ORDER

TIM REISCH;  
DOUGLAS L. WEBER,  
MISTI WAAGMEESTER;  
SHANNON MUCHOW;  
JACKIE SCHWADER;  
DOUGLAS LOEN;  
JENNIFER LAND-WAGNER; and/or  
any other South Dakota Department of  
Corrections and/or State of South Dakota,  
Jane and/or John Doe employees, officials  
and/or agents, personally or in their  
individual capacities,

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Defendants.

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No objections have been filed to Judge Simko's Report and Recommendation and this Court does adopt Judge Simko's Report and Recommendation. Plaintiff's Complaint is therefore dismissed with prejudice for failure to state a claim. Accordingly,

IT IS ORDERED:

1. That the Magistrate Judge's Report and Recommendation is ADOPTED by the Court, and Plaintiff's Complaint is dismissed with prejudice.
2. That the Plaintiff is responsible to pay the filing fee.

Dated this 1<sup>st</sup> day of September, 2010.

BY THE COURT:

*Lawrence L. Piersol*  
Lawrence L. Piersol  
United States District Judge

ATTEST:  
JOSEPH HAAS, CLERK

BY: *Summer Whited*  
DEPUTY